

7-19-1848

## Legal representatives of William Armstrong.

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indian and Aboriginal Law Commons](#)

---

### Recommended Citation

H.R. Rep. No. 771, 30th Cong., 1st Sess. (1848)

This House Report is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact [darinfox@ou.edu](mailto:darinfox@ou.edu).

Report No. 771.

[To accompany bill H. R. No. 605.]

---

HOUSE OF REPRESENTATIVES.

---

LEGAL REPRESENTATIVES OF WILLIAM ARMSTRONG.

---

JULY 19, 1848.

---

MR. ROBERT W. JOHNSON, from the Committee on Indian Affairs,  
made the following

REPORT:

*The Committee on Indian Affairs respectfully submit the following report on the memorial referred for its consideration, asking compensation for certain services rendered by the late William Armstrong, as an officer of the Indian department:*

The memorialists allege that Major Armstrong, whose legal representatives they claim to be, was appointed agent for the Choctaw Indians, in 1835, with a regular salary of \$1,500 per annum; that he was, at the same time, required to act as superintendent of the western territory, without additional compensation; that subsequently, in 1839, the additional duties of disbursing agent, previously discharged by military officers, were imposed; that in 1840 he was required to perform certain other duties, in disbursing public moneys, which properly devolved upon the Cherokee agent; that in 1845 he was charged with the superintendence of the emigration of the Choctaw Indians from the State of Mississippi, and with the delivery of certificates, or land scrip, to the same Indians; and finally, that he was employed, on various occasions, as a commissioner in the negotiation of Indian treaties. They further allege that the duties of superintendent of the western territory, and the other duties specified as having been assigned, subsequent to his first appointment as agent, in 1835, were all performed by Major A. without compensation, inasmuch as he never received any remuneration for his various services beyond his regular salary as Choctaw agent: they, therefore, ask that a suitable allowance be made. Three letters have been received from the Commissioner of Indian Affairs, on this subject, in answer to various calls for information, and to a

communication referring the memorial and accompanying papers for his consideration and report. From these letters, which are hereunto annexed, and marked as exhibits A, E, and H, it will be seen that the records of the Indian bureau confirm the allegations of the memorialists, as recapitulated above. It will also be seen that the commissioner regards it as a fixed principle, that the agents of the Indian department are bound to execute any trust committed to them—though remote from that specifically pertaining to their respective offices—without any extra compensation therefor, inasmuch as their whole time belongs to the government. The commissioner also feels it his duty to state, that the allowance by Congress of any part of the claim preferred by the petitioners, will be in opposition to the spirit and letter of the laws passed in 1839 and 1842, in regard to extra compensation to salaried officers, and may open the door to other demands of a similar character, perhaps equally as well founded as this.

Before the case now under consideration was brought to its notice, your committee had, after mature deliberation, laid down as a general principle to govern its action in adjudicating claims of this nature, the rule that where the measure of labor, duty, or responsibility, legitimately pertaining to an office, is increased subsequent to the appointment of the incumbent, such increase does not entitle him to an allowance for extra pay; as he takes with the office the risk of any such increase the contingencies of the service may require, and can always find his remedy in resignation, when the duties become too arduous, in proportion to the compensation; but when an officer is called upon to step out of the line of his duty, and perform services which clearly do not pertain to the office he holds, the transaction being in its nature separate and distinct from the contract implied in his regular office or employment, the matter is so far changed as to afford good ground for inquiry whether, under all the circumstances, an equitable claim exists for additional remuneration. Applying this rule to the present case, the question arises, whether Major Armstrong performed any services out of the line of his duty, and not pertaining to the office held by him; and, if he did, were they of such a character as to entitle him, under the circumstances, to extra pay?

It is contended in behalf of the memorialists that Major Armstrong rendered services of this description on various occasions, to wit:

1st. In the disbursement of certain moneys to Cherokee claimants in 1840 and 1841.

2d. As superintendent of the removal of the Choctaws from the State of Mississippi.

3d. In paying land certificates or scrip to Choctaw claimants.

4th. In the negotiation as a commissioner of the Cherokee treaty of 1841.

The Cherokee disbursements consisted of certain payments to claimants under the treaty of 1835-'6, which, in consequence of the suspension of the Cherokee agent, were made by Major Armstrong. His duties as disbursing agent were prescribed by regulations is-

sued 23d March, 1839. These required him, as Choctaw agent, to disburse to the public creditors all sums payable within his agency; and as superintendent to act as general receiver of funds for distribution to the different agents and sub-agents within his superintendency, by whom they were to be disbursed. (*See Report Com. Ind. Aff's.*, Dec., 1839, p. 206.) Mr. Crawford, who was at the head of the Indian bureau when the regulations were issued, and when the disbursements in question were assigned to Major Armstrong, says the regulations, "put all the funds due in the superintendency into the hands of the superintendent, to be distributed by him, not to the Indians, but to the several agents for payment to the Indians." (*See Exhibit F.*) Both Mr. Crawford and his successor, Mr. Medill, the present commissioner, concur in the opinion that this duty properly belonged to the Cherokee agent—would have been performed by that officer, but for his suspension, and was subsequently, in part, discharged by his successor. Mr. Medill says further, in general terms, that the "amount disbursed, and circumstances under which the same was done, are correctly stated" on the part of the memorialists. (*See Exhibit H.*) And Mr. Crawford says "the duty performed was an extra service, rendered by Major Armstrong in obedience to the order of the department, and not otherwise incumbent on him as superintendent." (*See Exhibit F.*)

The services embraced in the 2d and 3d classes, as superintendent of Choctaw emigration, and in paying scrip to Choctaw claimants, should, according to the Commissioner of Indian Affairs, be considered together; the performance of the latter duty devolving legitimately upon the officer charged with the former, and as Mr. McRae, who preceded Major A. in this branch of the service, was required to discharge both, the committee concur with the commissioner in this view of the subject. (*See Exhibit H.*) The fact that these duties thus connected had previously been regarded as a separate and distinct service, and as such assigned to a separate officer; that they were to be performed out of the limits of the Choctaw country, and of the western territory; and that the laws and regulations of the Indian department do not, in any instance, contemplate the employment of Indian agents or superintendents in the removal of Indians; altogether seems to indicate very plainly that this service was out of the range of Major Armstrong's duty. The circumstance that the Indians emigrating or drawing scrip were Choctaws, does not change the matter, as the Mississippi Choctaws appear to have been regarded as citizens of Mississippi, and to have had no connexion whatever with Major Armstrong as Choctaw agent, until after they had reached their country in the west.

In reference to the negotiation of the Choctaw treaty of 1846, the Commissioner of Indian Affairs states that "Major Armstrong was, in the first instance, merely invited to this city to aid, by his experience and advice, in the settlement of certain Cherokee differences, that tribe being within his superintendency," which differences were referred by mutual consent to the arbitrament "of Edmund Burke, A. K. Parris, and William Armstrong, whose award

was afterwards, by like mutual consent, thrown into the form of a treaty." He further states that all Major Armstrong's travelling expenses, while absent from home for this purpose, were allowed and paid him. (*see Exhibit H.*) "The memorialists select this particular service out of four similar cases as extra in its character, it is presumed, because the service was rendered at Washington, and not in the Indian country. The committee are informed, and believe, that it has been the constant practice of the Indian department to summon its agents to the seat of government; whenever their presence was required by the exigencies of the service, without making any additional allowance beyond the actual travelling expenses. No sufficient reason is perceived for departing from this course in the present instance.

Regarding it as settled that extra services were rendered, and that they consisted in the disbursement of the Cherokee moneys in 1840 and 1841, and in the discharge of the duty required of the agent previously employed in the removal of the Choctaws, and the payment of scrip, were the circumstances such as to call for or justify an allowance of additional compensation?

It is manifest, at the first glance, that the salary received by Major Armstrong was not an adequate remuneration for his services. He received nothing for discharging the duties of superintendent, or of disbursing agent, though, while acting in the latter capacity, \$3,190,076 29 passed through his hands, besides \$315,400 in land scrip, swelling the whole to \$3,505,476 29. (*See Exhibits A and D.*) To impose so great a weight of responsibility without allowing any recompense, certainly seems unreasonable, especially when the rate is considered at which such services are estimated in the plan of retrenchment recently submitted by the Indian department. The effect of that plan would be, to divide the regular duties performed by Major Armstrong between two officers—one with a salary of \$1,200, the other of \$1,600; the aggregate, \$2,800, exceeding his compensation by \$1,300 per annum. Had he been paid at this rate, the additional salary, during eight years' service as disbursing agent, would have amounted to \$10,400, without allowing anything for the extra services now under consideration. That Major Armstrong himself expected additional pay for his various services, is proved by the affidavit of John B. Luce, who acted as his clerk for several years. Mr. Luce states that Major Armstrong informed him that additional pay had been promised at various times by the War Department, and that he intended, at the close of his connexion with the Indian department, to present a claim therefor. (*See Exhibit L.*) There is no other proof of these assurances, although enough is shown to render it probable that Major Armstrong's statement was correct. Neither Mr. Poinsett, from whom it is alleged that some of the promises emanated, nor Mr. Crawford, who was Commissioner of Indian Affairs at the time, remember that any such assurances were given. Both of them, however, appear to think it highly probable that they were, and both are evidently of opinion that additional pay was justly due. Mr. Poinsett says: "I think it very probable that such a measure (the increase of salary) was

recommended by me, and that he was informed that I would do so. \* \* It appears to me so just that Major Armstrong should have been allowed a suitable compensation for the very arduous and responsible duties which devolved upon him in consequence of the withdrawal of military officers from the Indian service, that I cannot but believe some application in his behalf was made by the War Department." (See *Exhibit B.*) And Mr. Crawford says: "Although I have no recollection of it, I can very well suppose that the increase of his compensation might have been the subject of conversation; and his assertion that it occurred, such was my confidence in him, would satisfy me that it took place." (See *Exhibit C.*)

The evidence before the committee shows, moreover, that the extra services rendered were valuable, and faithfully performed, and arduous in their character. The Cherokee disbursements amounted to more than \$600,000. (See *Exhibits Hand I.*) Speaking of them, Mr. Crawford says: "The Cherokee claimants were several and numerous—sometimes not readily or easily identified. The duty run through a long period, more than a year, I believe; was tedious, and involved great responsibility, for the person paying having given notice of his authority and readiness to pay, must wait the Indians' call, and take care that he paid the true claimant, any mistake as to whom would involve a loss of the credit for the amount erroneously paid in his account." (See *Exhibit F.*) Mr. Medill says, Major Armstrong was required to make the payments on account of the "difficult and great responsibility" attending them; and that "the duty was certainly one of much perplexity and arduousness, and it appears from the records to have been performed to the satisfaction of the government." (See *Exhibit H.*)

Mr. Medill says further: "The whole duty was performed, however, within a period of some six or eight months, and during all which time, he was assisted by a special and experienced clerk, who received three or four dollars per day for his services." \* \* \* "Had the Cherokee agent not been suspended, the business would have been attended to as part of his regular duties, without any claim to an allowance beyond his regular salary of \$1,500." In regard to the time occupied, the commissioner appears to be in error. The Second Auditor reports that moneys for this purpose, were first received by Major Armstrong, on the 1st September, 1840, that the balance remaining in his hands, after making the disbursements, was turned over to Governor Butler, the successor of Governor Stokes as Cherokee agent, on the 7th March, 1842, and that the disbursements extended through the third and fourth quarters of 1840; and the first, second, and third quarters of 1841. (See *Exhibit I.*) In the opinion of the Committee, Major Armstrong was fairly entitled to receive the salary of the Cherokee agent, during the time he was charged with this very important and responsible duty; say from the 1st September, 1840, when funds were first placed in his hands for the purpose, up to the 20th September, 1841, the date of Governor Butler's appointment; as it was certainly incumbent on Major Armstrong to pay, and it



is probable, from the evidence, that he did pay any claimants that presented themselves during that period; and on the other hand, it is not probable that he performed any service of that kind after the appointment of Governor Butler. The time proposed, or one year and twenty days, at \$1,500 per annum, would give \$1,582 19, which is certainly a very moderate allowance, when considered with reference to the large amount disbursed.

The services in the removal of Indians and payment of scrip, seem, from the statements of Mr. Crawford, (*Exhibit C*;) and of the Indian office, (*Exhibit A*, Nos. 1, 4, and 5,) to have been important. The scrip disbursed by him, amounted to \$315,400, and the responsibility was necessarily very heavy. For so much of this service as related to Indians out of the Choctaw agency, or of the western territory, the committee are clearly of opinion that Major Armstrong was entitled to the compensation previously allowed Mr. McRae, for like service. This is stated in the official report of the department to Congress. (See page 17, of Doc. No. 56, H. of Reps., War Department, 29th Congress, 1st session,) to have been \$5 per day. The time Major Armstrong was engaged in that service, is shown by the affidavit of his clerk, Mr. Luce, (*Exhibit L*;) to have been 327 days, which, at \$5 per diem, would be \$1,635. This, with the proposed allowance of \$1,582 19, for the extra services as Cherokee agent, would make an aggregate of \$3,217 19, a very small sum when compared with the character and extent of those services for which Major Armstrong received no compensation, being less than one tenth of one per cent on the aggregate of his disbursements, to say nothing of the other services for which he was not remunerated.

The committee report the accompanying bill entitled "an act for the relief of the legal representatives of Wm. Armstrong, deceased, late Choctaw agent and acting superintendent."

---

*To the honorable the Senate and House of Representatives of the United States in Congress assembled: .*

The memorial of the representatives of the late Major William Armstrong

**RESPECTFULLY SHOWETH:**

That in the year 1835, Major Armstrong was appointed agent for the Choctaw tribe of Indians west of the Mississippi, with a compensation fixed by law at \$1,500 per annum, the rate allowed to other Indian agents.

That he was, at the same time, appointed acting superintendent of the tribes in the Indian superintendency, west of the States of Arkansas and Missouri, known as the Western Territory, which additional service he was required to perform without additional compensation.

- That, besides the labors legitimately pertaining to his office of Choctaw agent and of acting superintendent, the important and arduous duties of principal disbursing agent for the Western Territory were assigned to him in 1839.

That in 1845, he was called upon to step out of, and beyond, his proper sphere as agent and acting superintendent of tribes in the west, to cross the Mississippi, to assume the responsibility of delivering the "scrip" or certificates, issued in favor of Choctaw claimants living east of that river, and to take upon himself the entire control of the removal of the Indians then in the State of Mississippi, to the country provided for them west of Arkansas.

That besides the various duties specified, of Choctaw agent, acting superintendent, principal disbursing agent, agent for the delivery of scrip, and superintendent of emigration, all of which he continued to discharge faithfully, and it is believed with the entire approbation of his official superiors, up to the day of his death in June, 1847; he was also, from time to time, required to serve as commissioner in the negotiation of important treaties with different Indian tribes, to act in the place of subordinate agents in his superintendency during their occasional absence or disability, in matters involving great responsibility, and in various ways to perform services not legitimately connected with any of the offices enumerated.

That notwithstanding the vast amount of labor involved in the several duties thus imposed, over and above those properly belonging to the office to which he was appointed in the first instance—labor which first impaired his health, and ultimately shortened his life—he never received one cent of pay beyond his regular salary of \$1,500 as Choctaw agent; the amount paid to other and subordinate Indian agents, for services which, in most instances it is believed, fall far short in extent and importance of those which devolve upon the office of Choctaw agent alone.

These facts, your memorialists are persuaded, would of themselves, if properly substantiated, satisfy your honorable body that Major Armstrong was justly entitled, at the time of his death, to compensation for extra services. But there are others which greatly strengthen his claims.

When the bill for the increase of the army was passed in 1838, Congress, acting with reference to the military and not the Indian branch of the service, prohibited the employment of army officers in making Indian disbursements, but neglected to provide for the substitution of others in their stead. This led to the order of the War Department in 1839, already referred to, assigning that duty to Indian agents and superintendents. Mr. Poinsett, then at the head of the department, felt the injustice of requiring such a vast increase of labor and responsibility, without a corresponding increase of salary, the more strongly in Major Armstrong's case, because one of the first steps under the new arrangement was to order him to disburse, in addition to the moneys properly passing through the hands of the Choctaw agent and acting superintendent, the very large amounts payable to Cherokee claimants under the treaty of



1835. The Secretary accordingly expressed himself to that effect in decided terms, and was understood by Major Armstrong to give assurances that proper application should be made by the department to Congress for relief. Similar assurances were given by the immediate successor of Mr. Poinsett in 1841; and Major Armstrong, in the full conviction, based upon such assurances, that ample justice would ultimately be done in the premises, continued to perform to the best of his ability the various services required of him, until stricken down by death while in the actual discharge of his duty.

Your memorialists might dwell on the important character of the services rendered by Major Armstrong. They might point to the repeated proofs of his sound judgment and discretion in preserving the peace of the frontier. They might refer to his noble and unceasing efforts in the cause of Indian education, to his constant endeavors to elevate the intellectual and moral condition of the tribes under his charge. But they feel, that in all this he was simply discharging his duty, that in so doing he was actuated by higher motives than the love of gain, and that, even were it otherwise, services of such a character cannot be estimated in dollars and cents. His other labors stand on different ground. Disbursements, whether in money or scrip, can be measured and the value of the service ascertained. The business of superintending Indian emigration has already been rated by Congress at \$2,000 per annum, \$500 more than the entire pay of Major Armstrong. The negotiation of Indian treaties has generally been compensated at a still higher rate. Moreover, an examination of the facts will show that in Major Armstrong's case, the services required were more than any one man could possibly perform, and that he was consequently compelled, in repeated instances, to confide to others the disbursement of large amounts, thus infinitely increasing the risk and responsibility of his position.

Your memorialists presents the facts herein set forth, for the consideration of Congress, relying on its equitable disposition to make such additional allowance for the services of Major Armstrong, as may be proper under the circumstances.

JAMES T. ARMSTRONG,  
DAVID J. ARMSTRONG,  
F. W. ARMSTRONG,

*Legal representatives of Wm. Armstrong, dec.,  
by J. B. LUCE, their attorney.*

---

A.

WAR DEPARTMENT,  
*Office of Indian Affairs, May 5, 1848.*

SIR: I have had the honor to receive your letter of the 28th ult., and, in reply to the inquiries propounded by you, respectfully state, for the information of the Committee on Indian Affairs—

1st and 2d. That Captain William Armstrong was first appointed agent for the Choctaws and acting superintendent of Indian affairs on the 8th September, 1835. The duties in the latter capacity were devolved upon him under authority of the 30th section of the act of June 30, 1834, regulating trade and intercourse with the Indian tribes.

3d. That at the date of his first appointment it was not the practice of the department to require its agents and superintendents to disburse public moneys within their respective districts; this duty being performed, under the organization act of 1834, by military officers, up to the 5th July, 1839; from which time, by the provisions of the 31st section of act of July 5th, 1838, "increasing the present military establishment," they were prohibited from being so employed. The department being thus deprived of the aid of the military officers, and no other provision having been made by Congress, the disbursements on Indian account were necessarily thrown upon its superintendents, agents, and sub-agents. It was at that time and under these circumstances, that Captain Armstrong's services as principal disbursing agent first commenced.

4th, 6th, and 10th, will be answered from the office of the Second Auditor of the Treasury, to which a copy of your letter was immediately referred.

5th. The amount of security Major Armstrong was required to give, under his first appointment, was \$2,000. In 1839, he was required to increase his bond to \$20,000, which he did on the 22d April of that year; and again in 1844, (1st March,) he gave bonds as agent and acting superintendent, in the sum of \$20,000 in each capacity.

7th. He was on several occasions employed in negotiating Indian treaties, viz: He negotiated the convention between the Choctaws and Chickasaws, in which he was engaged from the 11th to 17th January, 1837, inclusive. He was associated with General Arbuckle in making a treaty with the Creeks, on the 23d November, 1838, at Fort Gibson, but the time thus occupied cannot be ascertained, as no compensation was claimed or allowed therefor. From the best data it is supposed he was not occupied more than four or five days.

He was appointed, in conjunction with the same officer, to negotiate the treaty concluded in 1837, with the Osages, but did not act.

In treating with the Creeks and Seminoles, in 1845, he was employed from the 24th December, 1844, to 5th January, 1845, and with the Cherokees, in 1846, from the 6th July, to 6th August.

8th. On the 27th March, 1846, he was charged with the duty of superintending the removal of the Choctaws, and in this capacity acted up to the day of his death, on the 12th June, 1847, but the time actually occupied in this duty is not known.

9th. By the reports of his successor, it appears that Major Armstrong delivered 1,401 pieces of scrip, amounting to 252,320 acres, or, at government price, to \$315,400. The circumstances under which he was first charged with the duty of disbursing the certificates or scrip, are fully stated in the accompanying copies of let-

ters from my predecessor to John J. McRae, esq., of 1st August and 2d September, and to Major Armstrong, of 27th and 28th October, 1845.

Very respectfully, your obedient servant,

W. MEDILL.

Hon. R. W. JOHNSON,

*of the Com. on Indian Affairs, H. of Rep.*

---

WAR DEPARTMENT, OFFICE INDIAN AFFAIRS,

*August 1, 1845.*

SIR: As the business on which you have been engaged for some time past, has been placed under the charge of Major William Armstrong, acting superintendent of Indian affairs for the western territory, with the exception of the emigration of the Choctaws and their subsistence, contracted for by Messrs. Anderson, Forester, Cobb, and Pickins, your services will cease from and after the receipt of this letter.

No fault has been found with you, as an agent of the government, but the Secretary of War has, upon the following statement made by me to him, approved this day of the recommendation therein contained.

"The whole of the business of the contemplated emigration, (of the Choctaws,) except what was to be performed by Alexander Anderson, John B. Forester, Samuel Cobb, and James Pickins, under their contracts, having been last spring committed to Major William Armstrong, acting superintendent, &c., it seems to me to be unnecessary to continue the agency of Mr. McRae. I therefore respectfully recommend that he be informed that his services are not longer required, but that he will consider them to be dispensed with, from and after the receipt of advice to that effect. The scrip and money remaining in his hands, I think, should be delivered to Wilson Hemmingway, esq., of Jackson, Mississippi, to be held subject to the orders of this office, and I do respectfully so advise."

You will therefore please turn over to Mr. Hemmingway all moneys and scrip that you may have in your possession, taking his receipt therefor, which will be your voucher, and at as early a date as possible, and transmit your accounts to this office for settlement.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

JOHN J. McRAE, Esq.,

*Herbert's Post Office, Neshoba county, Mississippi.*

WAR DEPARTMENT, OFFICE INDIAN AFFAIRS,  
September 23, 1845.

SIR: In the communication addressed to you on the first of August last, the receipt of which you acknowledged on the 27th of the same month, you were requested to turn over to Wilson Hemmingway, esq., of Jackson, Mississippi, "all moneys and scrip that you may have in your possession, taking his receipt therefor, which will be your voucher, and at as early a date as possible, and transmit your accounts to this office for settlement."

Mr. Hemmingway courteously declined to become our depository. You will please, therefore, to retain the scrip and money until Major Armstrong, to whom, as you have been informed, certain duties connected with the Mississippi Choctaws have been confided, arrives in your State; or calls on you for said money and scrip, which you will then pay and deliver to him.

The department cannot, of course, make any compensation, unless some special additional duty should be required of you, for which, in that event, a reasonable compensation will be made.

This communication is addressed to you; after conference with the Secretary of War.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

JOHN J. McREA, Esq.,

Garlandville, Jasper county, Mississippi.

WAR DEPARTMENT,  
Office of Indian Affairs, October 27, 1845.

SIR: An important part of the duty confided to you respecting the proposed removal of the Choctaws from Mississippi, has reference to the delivery of certificates or scrip to certain claimants under 14th article of the Choctaw treaty of 1830. Your personal acquaintance with those Indians, the stipulations of treaty, and the laws in regard thereof, render it unnecessary for me to go into a detailed history of the claims forming the subject of this communication. It is deemed sufficient to say that they are those which have been investigated under the law of August, 1842, and in which the decisions of the commissioners have been concurred in by the Secretary of War. It is regarded as necessary to the emigration of those Indians that certificates for one-half of their claims as allowed should be delivered to them east. Congress, by the law of 1842, contemplated that not more than one-half of the scrip should be so delivered. That portion payable west is to be funded under the act of the last session.

It has been represented to the department that the contractors for removing those Indians contemplate another emigration this autumn. Of this you were informed by letter of 8th ultimo, in which I requested you to proceed to Mississippi as soon as your duties at your agency would permit. I have received this morning your letter

of 1st instant, in which you mention your intended departure for Mississippi; and the importance of the matter has induced the department to despatch a special messenger with the scrip for delivery to you. That no unnecessary delay should take place on the part of the government respecting its agency in the removal of those Indians, Mr. L. A. Gobright has been deputed to attend to this business, and there have been put into his hands 2,315 pieces of scrip, as follows: for heads of families 722, for children over ten years of age at date of treaty 898 pieces, and pieces for children under 10 years of age 695 pieces, accompanied by lists descriptive of the same, and, as far as practicable, the clan or band of the respective claimants is designated to identify them.

It is the wish of government to gratify the people of Mississippi and Alabama by ridding their respective States of these Indians, and with that view it has been thought advisable to make the starting of the Indians (claimants) on their journey of emigration a condition precedent to delivery of the scrip to them. The views entertained in that respect by the late Secretary of War, Hon. Mr. Wilkins, will be found embodied in the accompanying copy of my letter of 11th October, 1844, to Jno. J. McRae, esq., in which the present Secretary of War concurs. But to give all possible aid to the emigration, and from the confidence reposed in you, I am authorized to say that the time and place for the delivery of the scrip, if you find it indispensable to the success of the emigration to depart from the instructions of 11th October, 1844, is left to your discretion, making sure beyond mishap that those to whom it may be delivered will emigrate. This modification of your powers is all that it is necessary to say further, except that I am myself instructed to give it to you in special charge to deliver this scrip, and every part of it, by your own hand to the Indians severally entitled to it.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

Major WM. ARMSTRONG,

*Acting superintendent Indian affairs, &c.,  
now at Jackson, Mississippi.*

---

WAR DEPARTMENT,  
*Office Indian Affairs, October 28, 1845.*

SIR: Under date of yesterday, a letter was addressed to you from this office, informing you that the department was about to send you, by special messenger, a large amount of scrip, to be delivered by you to the Choctaw Indians, now in Mississippi, on their emigration. This letter contains instructions for your conduct in making the said delivery, and was sent to you by the hand of the messenger, to be given you with the scrip.

The messenger set out this morning, and will perhaps reach you before this letter, but as he may not, and that you may be apprized



of his approach, I send you, by mail, copies of the letters of instruction to yourself and him. They will acquaint you with all that has been done or is contemplated in relation to the delivery of the scrip to the Indians, as connected with their removal to the west; and to enable you to distribute it to those respectively entitled, descriptive lists of them will be handed you, with the scrip, by the messenger.

There are two additional pieces of scrip, one piece for E-mol-ah-tubbe, (No. 769,) the other (No. 770) for No-wah, each for 160 acres, which, being of a special character, were not sent with the others. They are cases in which, under the 9th section of the law of 23d August, 1842, the parties claiming had sold, according to the award of the commissioners, one half of their claims, and consequently forfeited what was so sold, within five years after the ratification of the treaty. They are sent herewith, and will be delivered as in other cases.

The scrip that was sent to John J. McRae, esq., but not delivered by him to the Choctaws, because those entitled to it have not emigrated, and which is consequently in his hands, amounts to \$99,100. This scrip he has been instructed to hand over to you, upon your arrival in Mississippi, together with the descriptive lists that were sent to him with the scrip, so that you may be enabled to deliver it according to the instructions that have been forwarded to you in regard of the other scrip now sent.

Respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

Maj. WM. ARMSTRONG,

*Acting Superintendent Indian Affairs, &c.,  
now at Jackson, Miss.*

---

B.

SIR: I have the pleasure to acknowledge the receipt of your letter of the 16th October, which reached me at this place a few days ago. I have a perfect recollection of the character and services of the late Major Armstrong. I cannot recall to mind having made any assurances to him, at the time he was charged with the extra duties of disbursing agent, that his salary should be increased. I think it very probable that such a measure was recommended by me, and that he was informed I would do so.

It appears to me so just that Major Armstrong should have been allowed a suitable compensation for the very arduous and responsible duties which devolved upon him in consequence of the withdrawal of military officers from the Indian service, that I cannot but believe some application in his behalf was made by the War Department, and would advise you to search the records of the Indian office for evidence to that effect. Perhaps Mr. Crawford, who was at the head of the Indian bureau, could give you further and more definite information.



Your application to me requires no apology, and I am only sorry to have so little certain information to give you on the subject of your inquiries.

With regard and esteem, I am, sir, your obedient servant,  
J. R. POINSETT.

JOHN B. LUCE, Esq.,  
*Choctaw Agency.*

C.

WASHINGTON, *April 17, 1848.*

DEAR SIR: I received in October last your letter, dated "Choctaw agency, September 15, 1847," inquiring whether I knew of any promise or promises to the late Major William Armstrong, when superintendent of Indian affairs for the western territory, that his pay should be increased, or that the influence of the War Department should be exerted to that end. This you state to have occurred, according to your information from Major Armstrong, while Mr. Poinsett was Secretary of War, and in the year 1839, and while Mr. Bell (now of the Senate) was at the head of the department. I did not reply to your communication because I understood you were coming to Washington, and now you desire me to make an answer to it, detailing what I may recollect on the subject, with a general statement of Major Armstrong's official services, and my estimate of them.

I was Commissioner of Indian Affairs from October 1838, to October 1845. I have no remembrance of any promise, such as is referred to; but it may have been made by either or both of the Secretaries named without my hearing it or hearing of it. They both, I know, had a very high opinion of Major Armstrong as an officer and a man. Before the year 1839, many of the disbursements of the Indian Department, which are always large, were made by officers of the line of the army. On 5th July, 1838, an act of Congress was passed which prohibited the employment of those officers on this service after the 5th July, 1838-9. The disbursing duty was subsequently performed generally by the superintendents and officers of the Indian Department, by which their operations and responsibilities were much extended; and I think that those of Major Armstrong were larger and more onerous than any other superintendent's. The then recent emigration of the Creeks, and the emigration of the Cherokees, in 1838-9, increased his official duties greatly; for the year's subsistence of the emigrants was furnished under his direction and superintendence, as well as the various payments in money, &c., due by treaties. There must have been, I should think, at least 30,000 Indians on annual subsistence in 1838-39. Although I have no recollection of it, I can, therefore, very well suppose that the increase of his compensation might have been the subject of conversation; and his assertion that it occurred, such was my confidence in him, would satisfy me that it took place. If

it happened after 1839, I should think, however, that the promise could not have gone beyond saying that the department would endeavor to procure the passage of a law increasing his pay, for the act of 1839 prohibited any extra allowance for any extra service whatever, and this prohibition was re-enacted in perhaps stronger terms, I think, in the year 1841.

Major Armstrong and General Arbuckle made a treaty with the Creeks in November, 1838; and with the Seminoles (under the act of 13th February, 1839) for a change of their location west; and again a supplement, I believe, to the latter in 1845. He, Governor A. K. Parris, and Hon. Edmund Burke, made a treaty in this city, I have been informed, with the Cherokees in 1846.

The powers of Governor Stokes, as agent of the Cherokees, were suspended in 1840, during their difficulties. What official burden this threw on Major Armstrong, as superintendent, I cannot say, not being able to recollect what part of the agent's duties devolved on him, and what part on General Arbuckle; but I believe that large payments were made by special agents appointed by Major Armstrong, and perhaps some by his own hand.

The emigration of the Choctaws from the State of Mississippi, under the contract of 1844, is not yet completed. The general superintendence of it, and the delivery of scrip to those entitled to it, was committed to Major Armstrong in the spring or summer of 1845. He made since that time, I have been informed, two trips, according to my recollection, into Mississippi, out of the limits of his superintendency, assuming great responsibility, and, I have been told, that he emigrated since I left the Indian Office, a party of Choctaws to the west, adding to the responsibility already mentioned that of procuring the means of their comfortable removal.

Of all the matters herein referred to or spoken of, and probably of others connected therewith, you can obtain full and certain information at the Indian Office. I write in such haste, as you must perceive, merely from recollection and running my eye over one or two of my own annual reports. I believe I am correct in the main, but I may have fallen into some error of dates, or the like.

Major Armstrong was one of the best officers any department ever had. He was honest and capable. His services were at all times regarded by me as most useful to the War Department and Indian office.

Very respectfully, yours,

T. HARTLEY CRAWFORD.

JNO. B. LUCE, Esq.,

Washington, D. C.

D.

TREASURY DEPARTMENT,  
*Second Auditor's Office, May 13, 1848.*

SIR: Your letter of the 28th ultimo, to the Commissioner of Indian Affairs, making certain inquiries concerning the account of Wm. Armstrong, deceased, late acting superintendent, &c., was referred to this office for answer in part. The examination of the accounts necessary to an answer to your letter was going on in this office, and was suspended at the request of the Commissioner of Indian Affairs until an answer to another call received from him should be given. It is not at this time in the power of this office to answer all the inquiries in your letter; they will be fully answered at the earliest moment practicable. In the meantime I have the honor to say, that on an examination of the accounts of the late superintendent, settled by the accounting officers, it appears that he has disbursed public money to the amount of \$3,190,076 29.

I have the honor to be, very respectfully, your obedient servant,  
JNO. M. McCALLA,  
*Second Auditor.*

Hon. R. W. JOHNSON,  
*House of Representatives, U. S.*

E.

WAR DEPARTMENT,  
*Office of Indian Affairs, May 16, 1848.*

SIR: I have had the honor to receive your letter of the 13th instant, desiring, on behalf of the Committee of Indian Affairs, to be informed:

1st. "Whether or not Captain William Armstrong received his salary, as Choctaw agent, through your (this) department?"

2d. "Whether he was not paid, as provided by law, \$1,500 per year?"

3d. "Whether or not he was paid, through your office, any additional salary, over and above the amount of \$1,500, for his services as such agent, with the duties of acting superintendent and disbursing agent annexed?"

In answer to the first interrogatory, I state that he did receive his salary as agent through this office; to the second, that he was paid at the rate of \$1,500 per annum, as provided by law; and to the third, that, during the period I have held the office of Commissioner of Indian Affairs, he has not been paid any additional allowance or salary, over and above the said compensation authorized by law, for any service required at his hands; nor is it believed he had been prior to that time. The fact, however, can only be posi-

tively ascertained by an examination of his accounts filed with the Second Auditor, who should be addressed on the subject.

Presuming that the inquiries above made have reference to a claim of the heirs of Captain Armstrong, for extra compensation for extra services, as is alleged, performed by him, I take the liberty of remarking that it has been always regarded a fixed principle with the department that the whole time of any or all of its agents belongs to the government, and that they are bound to execute any trust committed to them, although it may be considered in some measure remote from that specifically pertaining to the office to which they have been appointed, and without any extra compensation therefor. When an agent in the performance of a particular duty is required to be absent from his post, the law, and the practice of the department, is to allow him whatever expenses he is subject to over and above those he would incur were he stationary; and this has in every instance, it is believed, been done when a demand has been made.

Very respectfully, your obedient servant,

W. MEDILL.

Hon. R. W. JOHNSON,

*Of the Committee on Indian Affairs,  
House of Representatives.*

---

F.

WASHINGTON, June 10, 1848.

DEAR SIR: I have received your note of 29th ultimo, saying, "Will you have the goodness to state whether the duty assigned to Captain Armstrong, in 1840, while you were Commissioner of Indian Affairs, of making payments to Cherokee claimants for improvements, reservations, spoliations, &c., was not a duty properly belonging to the Cherokee agent, and which did not either by law, regulation, or the custom of the Indian department, devolve upon the Choctaw agent, or the acting superintendent of the western territory; and whether the labor and responsibility of making such payments was not considered by you an extra duty?"

Montfort Stokes, esquire, agent for the Cherokees, was suspended from duty on 6th March, 1840, according to my annual report of 28th November, 1840, and I have no recollection of his functions being restored. My recollection is, that some short time after the duty of paying the Cherokee claimants, the amount that had been awarded to them, respectively, by the commissioners appointed under the 17th article of the treaty of 1845-'6, "for improvements, reservations, spoliations, &c.," was assigned to Major William Armstrong, the Choctaw agent, and acting superintendent of Indian affairs, for the western territory. There was then a large sum (several hundred thousand dollars I think) due and unpaid on these awards. What proportion of them Major Armstrong paid, (though I believe it was considerable,) I cannot say, any more than what aid in clerks or assistants he had in the discharge of this duty; but

full and accurate information on all these points can be obtained, if you do not already possess it, at the offices of the Commissioner of Indian Affairs, and of the Second Auditor of the Treasury Department. My memory is, that the late Governor P. M. Butler was appointed Cherokee agent in the summer or fall (August or September I think) of 1841; up to which time, Major Armstrong discharged the duty above referred to, or more probably until Governor Butler repaired to his post as agent. As to which, I speak without book; and precise information can also be procured at the offices above named.

The duty of paying these awards was tedious, and involved great responsibility, for the person paying, having given notice of his authority and readiness to pay, must wait the Indian's call, and take care that he paid the true claimant—any mistake as to whom, would involve a loss of the credit for the amount erroneously paid in his account.

I cannot say whether I considered the discharge of the duty at the time as an extra service or not. I presume I did not reflect upon it with a view to the formation of an opinion as to its character. All I can do is to inform you how it strikes me *now*, my attention having been called to it. Major Armstrong was, in 1840, as already mentioned, Choctaw agent, and acting superintendent of Indian affairs, receiving no additional salary for the latter. In the former capacity, he had certainly no official duty, of any kind, to perform for the Cherokees. Did that which he owed the public, and the Indians, as superintendent, include the one imposed on him by the department for the Cherokees, in 1840?

The general duties of superintendents are prescribed by Revised Regulations, No. 3, adopted 1st June, 1837. They are, to carry out the instructions of the War Department, and to superintend and control the intercourse between the several tribes, and between the Indians and citizens of the United States, according to the law of 1834, and to superintend and control the conduct of the agents and sub-agents within their superintendencies; to exercise a general supervision and control of the accounts of such agents and sub-agents, and to procure estimates from them of all sums due the tribes under their charge. The additional regulations of 23d March, 1839, required, by the loss of military officers, as disbursing agents, put all the funds due in the superintendency, into the hands of the superintendent, to be distributed by him—not to the Indians, but to the several agents for payment to the Indians. I do not remember any other regulations in my time touching the question; nor any law, except those prohibiting extra allowance for extra service, which were mentioned in a former communication to you on this subject.

Reflecting on this matter, and looking at the above regulations, I am of opinion that the duty of paying the Cherokee claims, alluded to, belonged regularly to the Cherokee agent, and not to the Choctaw agent or acting superintendent of the western territory, and that the duty performed was an extra service rendered by Major Armstrong, in obedience to the order of the department, and not otherwise incumbent on him as superintendent. Superin-



tendents have sometimes paid *annuities* where there was no agent, and perhaps under other circumstances; and I think there was one instance where annuities due in two or more agencies or sub-agencies were paid by one agent. I once, when commissioner of Indian affairs, distributed the annuities to the agents in the St. Louis superintendency, when there was no incumbent of that office, expenses only being allowed, according to my remembrance, in these cases; but they were different from the payment of the Cherokee awards. The duty was performed, and must necessarily be completed in a few days; and you could not, without the grossest negligence, make mistakes, but the Cherokee claimants were several and numerous, sometimes not readily or easily identified. The duty run through a long period, more than a year, I believe, and involved for these and other reasons great personal pecuniary responsibility.

Very respectfully yours,

T. HARTLEY CRAWFORD.

JOHN B. LUCE, Esq.,  
Washington, D. C.

G.

WASHINGTON, June 15, 1848.

SIR: Understanding that the Committee on Indian Affairs have instructed you to prepare a bill providing additional compensation for the services of the late Captain Wm. Armstrong, I beg leave respectfully to submit a few remarks for your consideration in regard to the precise character of those services.

When my attention was first directed to this subject, my impression was that Captain Armstrong was fairly entitled to an additional compensation of at least \$1,500 per annum, or double pay, for the last eight years of his life, that is, during the time he served as disbursing agent. I thought so because, without reference to *extra services*, the amount of labor performed by him in discharging the regular duties of his various employments had been more than double, while the responsibility incurred was at least five times that of any other Indian agent. Moreover, the Commissioner of Indian Affairs, in submitting his plan of retrenchment in his department, (*Doc. No. 70, H. R., 29th Congress, 2d session,*) had proposed to detach the office of Choctaw agent from that of superintendent, and to pay the latter for precisely those services for which Captain Armstrong received no compensation, the still higher rate of \$1,600 per year. A brief examination of the facts will show, I think, that the proposed allowance, far from being unreasonable, was considerably less than what might be reasonably expected.

It has already been seen by the letters of the Commissioner of Indian Affairs, that Captain Armstrong received no pay beyond his salary as Choctaw agent, and of course none for his services as acting superintendent. The services of superintendent in Michigan have been rated by Congress at \$1,000 per annum as appears from



the 1st section of the act of June 30, 1834; organizing the Indian department; which provides that while the governor of the Territory of Michigan "continues to act as superintendent of Indian Affairs, he shall receive therefor the annual sum of one thousand dollars, in full of all allowances, emoluments, or compensation, for services in said capacity." The duties of superintendent are more arduous in the western than in the Michigan superintendency, as the tribes are larger and more important. A similar allowance to Captain Armstrong for the 11 years and 9 months during which he acted as superintendent, would give \$11,750.

The sums distributed and disbursed by Captain Armstrong amounts, as stated by the Second Auditor, to \$3,190,076 29. In order to arrive at a correct estimate of the *regular*, as distinguished from the *extra* services, there should be deducted from this amount about \$600,000, paid while performing the duties of Cherokee agent to Cherokee claimants, under the treaty of 1835, as will be hereafter explained. The remaining \$2,590,000 was either disbursed as Choctaw agent, or transferred to subordinate agents to be disbursed by them, or paid out to meet the ordinary current expenses of the superintendency. Land office receivers, whose duties and responsibilities are confined to the simple receipt and safe keeping of public money, which they only part with on orders from the treasury, involving none of the risks and difficulties in the settlement of accounts to which disbursing agents are liable, are allowed a commission of one per cent. on moneys passing through their hands. The same rate in Captain Armstrong's case would give him \$25,900.

This amount, with the \$11,750 before mentioned, makes an aggregate of \$37,650 which Captain Armstrong would have received if paid at the regular customary rates for the regular duties, to say nothing of the extra services, performed by him over and above those devolving upon him as Choctaw agent, and for which alone he was compensated. This would have increased his pay from \$1,500 to \$5,700 per annum. The increase, \$4,200 per annum, or \$1,000 as superintendent and \$3,200 per annum during eight years service in disbursing, amounting in all to nearly three times as much as the allowance of \$1,500 per annum suggested as reasonable.

This estimate, it will be observed, applies exclusively to those services which might regularly, according to law and custom, be required of the person holding the offices of Choctaw agent and acting superintendent of the western territory. The committee, however, appears to have laid down the general principle of refusing to make allowance in any case for such services, regardless of the circumstances under which they were rendered; considering only such as did not, by law or custom, devolve upon the officer as entitled to compensation. The services of this latter class, rendered by Captain Armstrong, were various, comprising—

- 1st. The disbursement of Cherokee moneys to Cherokee claimants in the years 1840 and 1841.
- 2d. The superintendence of the emigration of Choctaws from the State of Mississippi.

3d. The delivery of scrip to Choctaw claimants out of the bounds of the Choctaw agency, or of the western superintendency.

4th. The negotiation, as a joint commissioner, of the Cherokee treaty of 1846, at the city of Washington.

The Cherokee disbursements to claimants under the treaty of 1835, for improvements, spoliations, reservations, and other like claims, were made by Captain Armstrong in consequence of the suspension of Governor Stokes, the proper agent for the Cherokees at the time. As shown by the reply of the Commissioner of Indian Affairs to your inquiries, the duty of disbursing Indian moneys was not assigned to Indian agents or superintendents until July, 1839, when new regulations, issued under authority conferred in the 17th section of the act of 1834, organizing the Indian department, defined clearly the relative duties of agents and superintendents as disbursing officers. These regulations may be found at page 206 of the report of the Commissioner of Indian Affairs, published with the President's message in December, 1839, and are in the following words:

"1st. Superintendents to be general receivers of funds within their superintendencies, which they shall distribute in their several districts by requiring the presence of one agent or sub-agent at the superintendency, through whom the moneys shall be conveyed to the different agencies."

(The second regulation relates to the transmission of moneys by water.)

"3d. Moneys for expenses of agencies, including pay agents employed, blacksmiths, farmers, and others, to be remitted quarterly; and no second quarter's payment to be turned over to agents by superintendents until an account of each preceding quarter's disbursements is rendered; or,

"4th. The agents shall give certificates to the persons employed or appointed by them respectively, of the sums that may be due at the end of each quarter, which will pass as cash, and obviate any inconvenience that might result from the third provision. This arrangement to be adopted or not, as the superintendent and agent may agree. Payments not to be made by agents when they grant certificates. These evidences of debt to be lifted by the superintendent, who will make no payments of the character contemplated without them.

"5th. With the preceding qualifications, the moneys due for annuities, by treaty stipulations, and for expenses, to be turned over to the several agents and sub-agents, by the superintendents."

The remaining regulations relate to the amount of security required, and to other matters not material to the point in question. Those already given, together with the letter herewith submitted from Hon. T. H. Crawford, Commissioner of Indian Affairs when the service was required, will show, it is presumed, to the entire satisfaction of every member of the committee, that this duty in no shape pertained to either or any of the offices held by Captain Armstrong; and its performance, therefore, entitles him, under the rule, to additional pay; more especially merited, in this instance, as a degree

of responsibility was involved far exceeding ordinary Indian disbursements, arising from the difficulty in identifying the proper claimants, or in case of their death, of their heirs. Some idea may be formed of the rigorous scrutiny to which these payments were subjected, from the fact, that in the settlement of the accounts, some of them, amounting to several thousand dollars, were not finally allowed until four or five years after the service was rendered.

In regard to the other three classes of extra services, I beg leave to call your attention to the following extracts from the act organizing the Indian Department, (June 30, 1834,) and the regulations prescribed under its authority:

The 3d section of the act in question provides, that "superintendents of Indian affairs shall, within their several superintendencies, exercise a general supervision and control over the official conduct and accounts of all officers and persons employed by the government in the Indian Department, under such regulations as shall be established by the President of the United States."

The 7th section of the same act provides "that the limits of each agency and sub-agency shall be established by the Secretary of War, either by tribes or by geographical boundaries. And it shall be the general duty of Indian agents and sub-agents to manage and superintend the intercourse with the Indians within their respective agencies, agreeably to law; to obey all legal instructions given to them by the Secretary of War, the Commissioner of Indian Affairs, or the Superintendent of Indian Affairs; and to carry into effect such regulations as may be prescribed by the President."

The 17th section authorizes the President to prescribe such rules and regulations as he may think fit, for carrying into effect the provisions of the act. By the authority thus given, the general duties of superintendents and agents are prescribed, in "Revised Regulations No. 3," page 95, of the report of the Commissioner of Indian Affairs, published with the President's message, in December, 1837, and are contained in the following paragraphs:

The duties of superintendents are—"1st. To carry into effect the instructions of the War Department, and superintend and control the intercourse between the several tribes, in conformity with the provisions of the intercourse act of 1834.

"2d. To superintend and control the intercourse between the Indians and citizens of the United States, or strangers with passports.

"3d. To superintend and control the conduct of the agents and sub-agents, to suspend them from office whenever sufficient reasons exist, and to communicate the reasons therefor to the War Department.

4th. To exercise a general supervision and control of the accounts of agents and sub-agents; to procure from them estimates of all the sums due to the tribes under their charge respectively, which they will embody in one general estimate, and transmit semi-annually to the commissioner of Indian affairs. Those estimates will show the amount under each head of appropriation.

"The general duties of agents and sub-agents—

"5. To superintend and manage the intercourse of their respec-

tive tribes with other tribes; and with the citizens of the United States.

"6. To carry into effect the instructions of the War Department or the Superintendent of Indian Affairs, and the regulations prescribed by the President."

The 7th paragraph requires them to live in or near the tribes committed to their charge.

The 8th fixes the amount of security required, and the remaining eleven paragraphs relate to the duties of nominating teachers and mechanics; making contracts for their services; selecting sites for schools, shops, &c.; preparing annual statements of the condition of the Indians, and their numbers, and lists of persons employed; visiting schools; delivering iron and steel, &c., for shops, &c., &c. They also fix the time for making annual reports, and the manner of obtaining leave of absence.

These extracts, with the others concerning disbursements, contain the substance of all that relates to the duties of agents and superintendents. They certainly do not contemplate their employment in the business of emigrating Indians, or in the performance of any other duty, whether in negotiating treaties or paying scrip, out of the bounds of their respective agencies or superintendencies. On the contrary, so far as emigration is concerned, No. 5 of the revised regulations, already referred to, published in the document last quoted, provides for an entirely distinct class of officers in that service; and the 8th paragraph of the regulations issued in 1839, provides that "the emigration of Indians be conducted, as before, under special superintendents and agents." (See Commissioner's report for 1839, p. 206.) The fact that the Indians who were removed, and who received scrip, were Choctaws, does not, it is respectfully submitted, change the character of the service, or make it any more incumbent on the Choctaw agent to perform it. The Choctaws removed and drawing scrip were those who availed themselves of the 14th article of the treaty of Dancing Rabbit creek, which contemplated their becoming, as they ultimately *did* become, citizens of Mississippi. They were recognized as such by the constitution of that State, and were so regarded by the Indian Department, which has taken the ground, that they "had severed their connexion with the general government as wards"—that they were not entitled to the expenses of their removal as Indians, but that such expenses were incurred solely for the purpose of ridding Mississippi and the adjoining States of that class of their population. It can, therefore, hardly be considered that any duty performed among them by the Choctaw agent before their arrival in the Choctaw country west of Arkansas, was one which properly devolved upon that officer. It certainly was not so considered by the War Department, for the duty of superintending the Choctaw removal was not assigned to Captain Armstrong until the 27th March, 1845, after the emigration of a large party, under a contract made in 1814; and the duty of delivering scrip was not transferred from the officer previously charged with that service, until a still later period, as you will see by the communication from the Indian office on that subject.

The services rendered in assisting to negotiate the Cherokee treaty of 1846, at Washington, were too obviously of an extra character to require any comment.

Presuming that the committee will concur with the views herein expressed, I respectfully suggest that the proper accounting officers of the treasury be authorized to settle the claim by allowing:

1st. A commission of one per cent. on the payments made by Captain Armstrong, in 1840 and 1841, to Cherokee claimants for improvements, spoliations, reservations, &c.

2d. A like commission on all land scrip paid by him to Choctaw-claimants, before their arrival in the Choctaw country west of Arkansas.

3d. The usual compensation of superintendent of emigration, during the time of actual service, in superintending the removal of the Mississippi Choctaws in 1845, 1846, and 1847.

4th. The usual compensation of a commissioner during the time he was employed in negotiating the Cherokee treaty of 1846.

The effect of this would be to give for the Cherokee disbursements, say, 1 per cent. on \$600,000.....	\$6,000 00
For the scrip: the amount paid to claimants before their arrival in the Choctaw country west, was 202 $\frac{3}{4}$ sections, at \$1 25 per acre, equal to \$162,200, on which 1 per cent. would be.....	1,622 00
As superintendent of emigration; the actual service was 10 months, which, at \$2,000 per annum, the rate fixed by regulation, would be.....	1,666 66
For 31 days' service, as Cherokee commissioner, at \$8 per day.....	248
	<hr/>
	9,536 66

As I have not the means at hand of ascertaining precisely the first named amount, the statement may vary a little, though it cannot vary much from the truth. The other sums are correctly given. The aggregate of all the allowances proposed falls far short of what I am persuaded the committee would have awarded, but for the intervention of its rule discriminating between extra pay for services and pay for extra services. I therefore trust the committee will either report a bill on the principle suggested, or one authorizing the payment to the representatives of Capt. Armstrong of a sum equal to the foregoing estimate. And to set at rest any doubts that may be entertained as to any previous allowances to Captain Armstrong, I would respectfully suggest that a clause be added requiring the amount of any extra pay or commission whatever that may have been heretofore allowed, to be deducted from the sum appropriated for the relief of his heirs.

Very respectfully, your most obedient servant,

J. B. LUCE,

*In behalf of the representatives of the late Wm. Armstrong.*  
Hon. R. W. JOHNSON,  
Committee on Indian Affairs,  
House of Representatives.



## H.

WAR DEPARTMENT, OFFICE INDIAN AFFAIRS,  
June 29, 1848.

SIR: I have had the honor to receive, and have examined the papers referred by you to this office respecting the claim of the heirs and legal representatives of Major William Armstrong, deceased, for compensation for extra services rendered by the latter, and I respectfully submit the following report.

In addition to the information contained in my two letters to you of the 5th and 16th ultimo, there are but a few remarks and facts to be made and stated in connexion with this claim that I deem essential should be brought to the notice of the committee of which you are a member.

In the letter of the attorney of the heirs of the 15th instant, filed with the papers submitted, he singles out certain duties as being extra in character executed by Major Armstrong, for which he makes the following charges:

1st. Commission on disbursements made in paying the claims arising under the Cherokee treaty of 1835-6, \$600,000, at 1 per cent.....	\$6,000 00
2d. Commission on disbursements of Choctaw scrip, \$162,200, at 1 per cent.....	1,622 00
3d. Compensation as superintendent of Choctaw emigration, 10 months, at the rate of \$2,000 per annum..	1,666 66
4th. Compensation as commissioner for treating with the Cherokees in 1846, 31 days, at \$8 per day.....	248 00
	<hr/>
	<hr/>
	\$9,536 66

The 4th section of the act organizing the department of Indian affairs, approved June 30, 1834, provides among other things for the appointment of two Indian agents for the western territory, at an annual compensation of \$1,500, and in pursuance thereof, William Armstrong and Major Cummins were appointed such agents. The 30th section of the act regulating trade, &c., approved the same day, is in the following words, "that, until a western territory shall be established, the two agents for the western territory, as provided in the act for the organization of the Indian department, this day approved by the President, shall execute the duty of agents for such tribes as may be directed by the President of the United States. And it shall be competent for the President to assign to one of the said agents, in addition to his proper duties, the duties of superintendent for such district of country, or for such tribes, as the President may think fit. And the powers of the superintendent at St. Louis over such district or tribe as may be assigned to such acting superintendent shall cease: *Provided*, That no additional compensation shall be allowed for such services." In pursuance of the power thus conferred on the President the duties of superintendent, &c., were assigned to Major Armstrong.

In reference to the first charge, &c., the amount disbursed, and the circumstances under which the same was done, are correctly



stated by Mr. Luce. The Cherokee agency was within the superintendency of Major Armstrong, and the functions of the agent having been suspended, and aware of the difficulty and great responsibility of those payments, the department required them to be made by Major Armstrong. The duty was certainly one of much perplexity and arduousness, and it appears from the records to have been performed to the satisfaction of the government. The whole duty was performed, however, within a period of some six or eight months, and, during all which time, he was assisted by a special and experienced clerk, who received three or four dollars per day for his services. Had the Cherokee agent not been suspended, the business would have been attended to as a part of his regular duties, without any claim to an allowance beyond his regular salary of \$1,500.

The second charge for disbursement of scrip, and the third for services as superintendent of emigration, should, in my judgment, be considered together, as I regard the performance of the first duty as legitimately belonging to that of the last. It will be seen by reference to the instructions to Mr. McRae, the predecessor of Major Armstrong in the emigration of the Choctaws, that it was made a part of his duty to disburse the scrip, and as the latter succeeded him he was likewise charged with the same trust, with this difference, that the latter was assisted in his operations by his clerk.

In reference to the fourth item, I would remark that Major Armstrong was, in the first instance, merely invited to this city to aid, by his experience and advice, in the settlement of certain Cherokee differences; that tribe being within his superintendency, and he being thoroughly acquainted with all causes of difference among them. These matters of difference were referred by mutual agreement to the arbitrament of Edmund Burke, A. K. Parris, and William Armstrong, whose award was afterwards, by like mutual consent, thrown into the form of a treaty. Major Armstrong, as has been seen, was already in the city, and whose expenses in coming here, remaining in the city and returning home, have already been allowed and paid him in addition to his salary for the same time. I may further remark that, during his absence from the agency in the discharge of those duties, and which are alleged to be extra services, the whole expenses of Major Armstrong, over and above what he would be subjected to were he stationery at his post, were paid him.

In conclusion and respecting the whole demand, I feel it my duty to state that the admission by Congress of all or any of the items of charge, will be in opposition to the spirit and letter of the laws passed in 1839 and 1842, in regard to extra compensation to salaried officers in the service of the government, and may open the door to many other demands of a similar character, perhaps equally as well founded as this.

The papers referred by you, are herewith returned.

Very respectfully, your obedient servant,

W. MEDILL.

Hon. R. W. JOHNSON,

*of the Committee Indian Affairs, House of Reps.*

## I.

TREASURY DEPARTMENT,  
*Second Auditor's Office, July 5, 1848.*

SIR: In answer to the letter of John B. Luce, Esq., to you of the 3d instant, and referred by you to this office, in relation to the accounts, &c., of the late William Armstrong, acting superintendent, &c., I have the honor to state that it appears, by settlements of his accounts, that he disbursed, on Cherokee account, in 3d and 4th quarters, 1840, and in 1st, 2d, and 3d quarters, 1841, \$807,735 64; that he turned over to P. M. Butler, on same account, \$40,000, on the 7th March, 1842, and that the first advance made to Major Armstrong by the treasury was in the month of September, 1840.

I have the honor to be, very respectfully, your obedient servant,

JOHN M. McCALLA,  
*Second Auditor.*

P. S.—Mr. Luce's letter is herewith returned.

JOHN M. McCALLA,  
*Second Auditor.*

Hon. R. W. JOHNSON,  
*House of Representatives, United States.*

---

J.

WASHINGTON, *July 6, 1848.*

SIR: The Second Auditor has reported the Cherokee disbursements, made by Major Armstrong, in 1840 and 1841, as amounting to \$807,735 64. In explanation of the apparent discrepancy between this statement and that previously made by me, in which the disbursements were rated at \$600,000, I have to state that the sum of \$172,316 47 was paid out for the subsistence of Cherokees, to contractors, being part of the disbursements for the 4th quarter of 1840. Although this money would have been paid by the Cherokee agent, but for his suspension, as it was a kind of duty frequently performed by the superintendent, it could hardly be regarded as an extra service, and for that reason was not included in my statement. Deducted from the amount reported by the Second Auditor, the balance remaining will be \$635,419 17; the disbursement of which is claimed as an extra service.

Very respectfully, your obedient servant,

J. B. LUCE.

Hon. R. W. JOHNSON.

K.

TREASURY DEPARTMENT,  
*Second Auditor's Office, July 14, 1848.*

SIR: Yours of the 11th instant, asking when Governor Butler's services as Cherokee agent commenced, and when funds on Cherokee accounts were received by the late Wm. Armstrong, has been received. In reply thereto, I have the honor to state that it appears by document No. 69, 28th Congress, 1st session, House of Representatives, that P. M. Butler's appointment as Cherokee agent, was on the 20th September, 1841, and it appears by the books of this office that, on the 16th July, 1840, a requisition on the treasury was issued in favor of Wm. Armstrong, for \$160,000, which he acknowledges by his account current to have received on the 1st day of September, 1840, the same being on account Cherokees.

I have the honor to be, very respectfully, your obedient servant,  
JNO. M. McCALLA,  
*Second Auditor.*

Hon. R. W. JOHNSON,  
*House of Representatives, United States.*

---

L.

John B. Luce being duly sworn, doth depose and say, that in the month of December, 1843, he was appointed clerk to the late William Armstrong, at that time agent for the Choctaws, and acting superintendent of the western territory, and that he continued to act as clerk for said Armstrong until the time of his death, in June, 1847. That during that period, he frequently heard the said Armstrong say that when the additional duties of disbursing agent were assigned to him, he received assurances from Mr. Poinsett, who was Secretary of War at the time, and subsequently, from his successor Mr. Bell, that he should receive additional pay for his services; and the said Armstrong further stated repeatedly that it was his intention, at the close of his connection with the Indian department, to make application for additional compensation for his various services, relying for the success of his application, on the assurances above referred to, and upon the equity of his claim.

And this deponent further saith, that the said Armstrong first entered upon the discharge of his duties as superintendent of Choctaw emigration and agent for the payment of scrip, on the 21st day of October, 1845; that he continued in the performance of this service, in connection with his other duties, either in the State of Mississippi, in travelling to and from that State, or at the Choctaw agency until the 22d May, 1846, when he left Mississippi for the city of Washington, and was not again engaged in the service referred to, so far as this deponent is informed, until October, 1846, the emigration and payment of scrip having been

suspended during the summer of 1846. On the 26th October, 1846, he resumed his labors as superintendent, &c., and continued to be so employed, in connection with his other regular duties, until disabled by the illness which terminated in his death, on the 12th June, 1847.

This deponent further saith, that the duties herein referred to, in the removal of Indians and payment of scrip performed before the 10th February, 1846, were either performed, or related exclusively to operations, out of the Choctaw agency, with the exception of a very few pieces of scrip paid at that place. But that after that period no scrip was paid until after the arrival of the Indian claimants in the Choctaw country west, and all of the services of the kind referred to rendered by Major Armstrong, were rendered and related to transactions and persons within the limits of the Choctaw agency.

J. B. LUCE.

Sworn and subscribed before me, this 14th day of July, 1848.

RICHARD KEY WATTS, J. P.